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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/766,265	01/28/2004	Robert B. Dianda	2551	3451
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			2616	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/766,265

Applicant(s)

DIANDA, ROBERT B.

Examiner

Betty Lee

Art Unit

2616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 8-11 and 15-21 is/are rejected.
- 7) ☐ Claim(s) 5-7 and 12-14 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims **15-21** are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The software product should be stored on a computer readable medium. It is suggested that claims 15-21 be written in terms of "computer readable medium encoded with computer executable instructions".

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims **1-3, 8-10, and 15-17** are rejected under 35 U.S.C. 102(e) as being anticipated by Kompella (US 7,136,374).

Regarding claim 1, Kompella teaches a plurality of IWU edge nodes adapted for exchanging MPLS frames with the plurality of client devices (see Fig. 2 Box 212); an IWU switch node communicating with the plurality of IWU edge nodes and adapted for

exchanging the MPLS frames with the MPLS network, with the IWU switch node being configured to receive a MPLS frame from the MPLS network, with the MPLS frame including an inner label and an outer MPLS label (see col. 9 lines 22-29), process the outer MPLS label in order to determine one designated IWU edge node of the plurality of IWU edge nodes, with the one designated IWU edge node being designated by the outer MPLS label (see col. 9 lines 25-27), and transfer the MPLS frame to the one designated IWU edge node (see col. 9 lines 22-29); and the one designated IWU edge node being configured to transfer the data transported in the MPLS frame to a designated client device that is designated by the inner label of the MPLS frame (see col. 9 lines 27-29).

Regarding claim 2, Kompella further teaches the outer MPLS label specifies a unique IWU edge node of the plurality of IWU edge nodes (see col. 9 lines 22-29).

Regarding claim 3, Kompella further teaches the IWU interpreting the inner label based on the outer MPLS label (see col. 9 lines 62-67).

Regarding claim 8, Kompella teaches an IWU switch node of the IWU receiving a MPLS frame from the MPLS network, with the MPLS frame including an inner label and an outer MPLS label (see col. 9 lines 22-29); the IWU switch node processing the outer MPLS label in order to determine one designated IWU edge node of a plurality of IWU edge nodes, with the one designated IWU edge node being designated by the outer MPLS label (see col. 9 lines 25-27); the IWU switch node transferring the MPLS frame to the one designated IWU edge node; and the one designated IWU edge node

transferring the data transported in the MPLS frame to a designated client device that is designated by the inner label of the MPLS frame (see col. 9 lines 22-29).

Regarding claim 9, Kompella further teaches the outer MPLS label specifies a unique IWU edge node of the plurality of IWU edge nodes (see col. 9 lines 22-29).

Regarding claim 10, Kompella further teaches the IWU interpreting the inner label based on the outer MPLS label (see col. 9 lines 62-67).

Regarding claim 15, Kompella teaches a control software configured to direct the IWU switch node to receive a MPLS frame from the MPLS network, with the MPLS frame including an inner label and an outer MPLS label, to direct the IWU switch node to process the outer MPLS label in order to determine one designated IWU edge node of the plurality of IWU edge nodes (see col. 9 lines 22-29), with the one designated IWU edge node being designated by the outer MPLS label, to direct the IWU switch node to transfer the MPLS frame to the one designated IWU edge node, and to direct the one designated IWU edge node to transfer the data transported in the MPLS frame to a designated client device that is designated by the inner label of the MPLS frame; and a storage system that stores the control software (see col. 9 lines 22-29).

Regarding claim 16, Kompella further teaches the outer MPLS label specifies a unique IWU edge node of the plurality of IWU edge nodes (see col. 9 lines 22-29).

Regarding claim 17, Kompella further teaches the IWU interpreting the inner label based on the outer MPLS label (see col. 9 lines 62-67).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. Claims **4, 11, and 18** are rejected under 35 U.S.C. 103(a) as being unpatentable over Kompella in view of Sanderson et al. (US 2004/0223499).

Regarding claims 4, 11, and 18, Kompella teaches all the subject matter of the claimed invention with the exception of stripping off the outer MPLS label. However, Sanderson teaches the IWU switch node configured to strip off the outer MPLS label from the MPLS frame before the IWU switch node transfers the MPLS frame to the designated IWU edge node (see paragraph 142 lines 17-20). Thus, it would have been obvious to one of ordinary skill in the art to use the system of Sanderson in the system of Kompella. The motivation for doing so is to increase efficiency by removing an unneeded label.

Allowable Subject Matter

8. Claims **5-7 and 12-14** objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Basso et al. (US 2004/0174879) and Buyukkoc et al. (US 2006/01014297) are cited to show systems which are considered pertinent to the claimed invention.

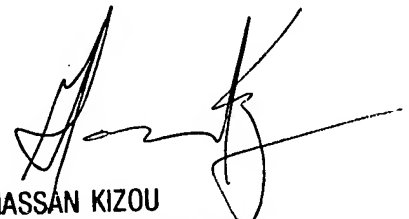
10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Betty Lee whose telephone number is (571) 270-1412. The examiner can normally be reached on Monday-Thursday 9-5 EST and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hassan Kizou can be reached on (571) 272-3088. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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